

§ 530.5 Duty to file.

(a) The duty under this part to file service contracts, amendments and notices, and to publish statements of essential terms shall be upon the individual carrier party or parties participating or eligible to participate in the service contract.

(b) Filing may be accomplished by any duly agreed-upon agent, as the parties to the service contract may designate, and subject to conditions as the parties may agree.

(c) *Registration*—(1) *Application*. Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier in writing by submitting to BTCL the Registration Form (FMC-83) in Exhibit 1 to this part.

(2) *Approved registrations*. OIRM shall provide approved Registrants a log-on ID and password for filing and amending service contracts and so notify Registrants via U.S. mail.

[64 FR 11206, Mar. 8, 1999, as amended at 64 FR 41042, July 29, 1999]

§ 530.6 Certification of shipper status.

(a) *Certification*. The shipper contract party shall sign and certify on the signature page of the service contract its shipper status (e.g., owner of the cargo, shippers' association, NVOCC, or specified other designation), and the status of every affiliate of such contract party or member of a shippers' association entitled to receive service under the contract.

(b) *Proof of tariff and financial responsibility*. If the certification completed by the contract party under paragraph (a) of this section identifies the contract party or an affiliate or member of a shippers' association as an NVOCC, the ocean common carrier, conference or agreement shall obtain proof that such NVOCC has a published tariff and proof of financial responsibility as required under sections 8 (46 U.S.C. 40501-40503) and 19 (46 U.S.C. 40901-40904) of the Act before signing the service contract. An ocean common carrier, conference or agreement can obtain such proof by the same methods prescribed in § 515.27 of this chapter.

(c) *Joining shippers' association during term of contract*. If an NVOCC joins a

shippers' association during the term of a service contract and is thereby entitled to receive service under the contract, the NVOCC shall provide to the ocean common carrier, agreement or conference the proof of compliance required by paragraph (b) of this section prior to making any shipments under the contract.

(d) *Reliance on NVOCC proof; independent knowledge*. An ocean common carrier, agreement or conference executing a service contract shall be deemed to have complied with section 10(b)(12) of the Act (46 U.S.C. 41104(12)) upon meeting the requirements of paragraphs (a) and (b) of this section, unless the carrier party had reason to know such certification or documentation of NVOCC tariff and bonding was false.

[64 FR 11206, Mar. 8, 1999, as amended at 74 FR 50723, Oct. 1, 2009]

§ 530.7 Duty to labor organizations.

(a) *Terms*. When used in this section, the following terms will have these meanings:

(1) *Dock area* and *within the port area* shall have the same meaning and scope as defined in the applicable collective bargaining agreement.

(2) *Reasonable period of time* ordinarily means:

(i) If the cargo in question is due to arrive in less than five (5) days from the date of receipt of the request as defined in paragraph (b) of this section, two (2) days from the date of receipt of the request; but

(ii) If cargo in question is due to arrive in more than five (5) days from the date of receipt of the request as defined in paragraph (b) of this section, four (4) days from the date of receipt of the request.

(3) *Movement* includes, but is not necessarily limited to, the normal and usual aspects of the loading and discharging of cargo in containers; placement, positioning and re-positioning of cargo or of containers; the insertion and removal of cargo into and from containers; and the storage and warehousing of cargo.

(4) *Assignment* includes, but is not limited to, the carrier's direct or indirect control over the parties which, the manner by which, or the means by

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which the shipper's cargo is moved, regardless of whether such movement is completed within or outside of containers.

(5) *Transmit* means communication by first-class mail, facsimile, telegram, hand-delivery, or electronic mail ("e-mail").

(b) *Procedure*. In response to a written request transmitted from a labor organization with which it is a party or is subject to the provisions of a collective bargaining agreement with a labor organization, an ocean common carrier shall state, within a reasonable period of time, whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transported under a service contract:

(1) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within a port area;

(2) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

(3) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; or

(4) The assignment of container freight station work and maintenance and repair work performed at a dock area or within the port area.

(c) *Applicability*. This section requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier.

(d) *Disclosure not deemed admission or agreement*. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement.

(e) *Dispute resolution*. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Re-

lations Act, and without reference to this section.

(f) *Jurisdiction and lawfulness*. Nothing in this section has any effect on the lawfulness or unlawfulness under the Shipping Act of 1984, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other federal or state law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under section 8(c) of the Act (46 U.S.C. 40502).

[64 FR 11206, Mar. 8, 1999, as amended at 74 FR 50723, Oct. 1, 2009]

Subpart B—Filing Requirements

§ 530.8 Service Contracts.

(a) Authorized persons shall file with BTCL, in the manner set forth in appendix A of this part, a true and complete copy of every service contract or amendment to a filed service contract before any cargo moves pursuant to that service contract or amendment.

(b) Every service contract filed with the Commission shall include the complete terms of the service contract including, but not limited to, the following:

(1) The origin port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(2) The destination port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(3) The commodity or commodities involved;

(4) The minimum volume or portion;

(5) The service commitments;

(6) The line-haul rate;

(7) Liquidated damages for non-performance (if any);

(8) Duration, including the

(i) Effective date; and

(ii) Expiration date;

(9) The legal names and business addresses of the contract parties; the legal names of affiliates entitled to access the contract; the names, titles and addresses of the representatives signing the contract for the parties; and